

# **ASSURANCE OF VOLUNTARY COMPLIANCE**

**Pursuant to s. 112.7 of the  
*Ontario Energy Board Act, 1998***

**Alectra Energy Services Inc.**

**Licence No. ES-2018-0266**

**OEB File No. EB-2020-0303**

**FILED: January 19, 2021**

## **I. INTRODUCTION AND SUMMARY**

Ontario Energy Board (OEB) staff conducted an inspection of Alectra Energy Services Inc. (AESI). The inspection focused on AESI's compliance with the Unit Sub-Metering Code (USMC) in relation to disconnection notices that it issued to its customers during the period from May 2019 to June 2020. Following the inspection, OEB staff identified, and AESI verified, specific instances of the licensee's non-compliance with various of its customer disconnection obligations under the USMC, as it was in effect at that time.

In resolution of the contravention, AESI provided this Assurance of Voluntary Compliance to the OEB under section 112.7 of the *Ontario Energy Board Act, 1998* (OEB Act).

## **II. STATEMENT OF FACTS**

AESI is a unit sub-meter provider that is also authorized to operate under trade names PowerStream Energy Services and PESI, as described in its licence, ES-2018-0266.

In the process of reviewing a complaint received by the OEB from an AESI customer, OEB staff identified breaches of enforceable provisions by the licensee relating to the form of disconnection notice that it used during the period May 2019 to June 2020 (Disconnection Notice). The breaches also related to AESI's procedures for contacting residential consumers one final time prior to disconnecting service at least 48 hours before a scheduled disconnection date (48-Hour Notice).

In May 2020, OEB staff advised that it was commencing an inspection to assess AESI's compliance with its customer disconnection related obligations under the USMC, in order to determine if enforcement action would be necessary. The notice of inspection also required AESI to provide OEB staff with additional information. AESI has been responsive to OEB staff throughout the inspection process. Through the course of the information exchange, AESI confirmed to OEB staff as follows:

With respect to the Disconnection Notice:

- i. AESI issued approximately 2,800 such notices during the period May 2019 to June 2020, each of which were not fully compliant with the USMC for one, or more, of the following reasons:
- The Disconnection Notice did not comply with section 4.2.5A(b) of the USMC, in that it failed to advise consumers of accurate earliest and latest dates upon which their disconnection may occur.
  - The Disconnection Notice did not comply with section 4.2.5F of the USMC, which established a maximum disconnection window of 11 days. The Disconnection Notice advised consumers of a 12-day disconnection window.
  - The Disconnection Notice did not comply with section 4.2.6 of the USMC, in that it failed to provide consumers with the required minimum 10 days' notice prior to the earliest date upon which the consumer was advised that disconnection may occur. Consumers were given only nine days' notice.
  - The Disconnection Notice did not comply with section 4.2.5A(j)(ii) of the USMC, which requires the licensee to advise that Emergency Financial Assistance is available to low-income customers, and to advise where further information about the additional assistance is available.
- ii. AESI disconnected the electricity service of 427 consumers following their receipt of a non-compliant disconnection notice, as identified above.
- iii. AESI collected \$34,545 in disconnection charges from 329 consumers and \$32,225 in reconnection charges from 305 consumers, each of whom had their electricity service disconnected following receipt of a non-compliant disconnection notice, as identified above.

With respect to the 48-Hour Notice:

- i. AESI issued approximately 1,900 such notices during the period May 2019 to June 2020, each of which was not fully compliant with the USMC for one, or more, of the following reasons:
- The 48-Hour Notice did not comply with section 4.2.5G(a) of the USMC, in that it failed to provide the minimum 48 hours of notice prior to the stated date of possible disconnection. As well, the stated disconnection date in the 48-Hour Notice did not fall within the disconnection window described in the related disconnection notice.
  - The 48-Hour Notice did not comply with section 4.2.5G(e) of the USMC, which requires a unit sub-meter provider to advise that it offers an arrears payment program to all residential consumers. The 48-Hour Notice offered an arrears payment management program to eligible low-income customers only.
  - The 48-Hour Notice did not comply with section 4.2.5G(f)(ii) of the USMC, which requires a unit sub-meter provider to advise that Emergency Financial Assistance is available to low-income customers, and to advise where further information about the additional assistance is available.

**Unit Sub-Metering Code, Sections 4.2.5A(b) and (j)(ii), 4.2.5F and 4.2.6**

Section 4.2.5A of the USMC provides, in part, that a unit sub-meter provider that intends to disconnect, pursuant to section 31 of the *Electricity Act, 1998*, the property of a residential consumer for non-payment, shall send or deliver a disconnection notice to the consumer that contains, at a minimum, the following information:

(b) the earliest and latest dates on which disconnection may occur, in accordance with sections 4.2.5C and 4.2.6; ...

(j) that the following additional assistance may be available to an eligible low-income customer, along with contact information for the unit sub-meter provider or distributor, as

applicable, where the consumer can obtain further information about the additional assistance:

...

(ii) Emergency Financial Assistance.

Section 4.2.5F of the USMC, as it was then in effect, provided that a disconnection notice issued for non-payment shall expire on the date that is 11 days from the last day of the applicable minimum notice period referred to in section 4.2.6, determined in accordance with the rules set out in section 4.5.11.

Section 4.2.6 of the USMC, as it was then in effect, provided that a unit sub-meter provider shall not disconnect a consumer for non-payment until the following minimum notice periods have elapsed.

(a) 60 days from the date on which the disconnection notice is received by the consumer, in the case of a residential consumer that has provided the unit sub-meter provider with documentation from a physician confirming that disconnection poses a risk of significant adverse effects on the physical health of the consumer or on the physical health of the consumer's spouse, dependent family member or other person that regularly resides with the consumer; or

(b) 10 days from the date on which the disconnection notice is received, in all other cases.

AESI admits that it failed to fully comply with its obligations under the USMC. AESI issued approximately 2,800 disconnection notices that contained contraventions of one or more of the above-referenced enforceable provisions. Of this group, approximately 300 consumers were given only nine days' notice of their possible disconnection, and not a minimum 10 days' notice as prescribed by the USMC.

**Unit Sub-Metering Code, Sections 4.2.5G(a), (e) and (f)(ii)**

Section 4.2.5G of the USMC provides, in part, that a unit sub-meter provider shall make reasonable efforts to contact, in person or by telephone, a residential consumer to whom the unit sub-meter provider has issued a disconnection notice for non-payment at least 48 hours prior to the scheduled date of disconnection and, at that time, shall:

(a) advise the consumer of the scheduled date for disconnection; ...

(e) advise the consumer that a Board-prescribed standard arrears management program may be available to all residential consumers; the unit sub-meter provider must be prepared to enter into an arrears payment agreement at that time if the consumer is eligible under section 4.6; and

(f) advise that the following additional assistance may be available to an eligible low-income customer, along with contact information for the unit sub-meter provider or distributor, as applicable, where the consumer can obtain further information about the additional assistance:

...

(ii) Emergency Financial Assistance

AESI issued approximately 1,900 48-Hour Notices that contained contraventions of one or more of the above-referenced enforceable provisions. In 11 instances, a consumer received a notice that failed to provide a minimum 48 hours of notice prior to the stated date of possible disconnection, and which did not align with the disconnection-related dates in the Disconnection Notice previously provided to the consumer.

### **III. ASSURANCE**

AESI hereby assures the OEB that it is aware of its obligations under the USMC relating to the customer disconnection process, and that it takes these obligations seriously. AESI understands the fundamental importance of ensuring that consumers are given at least the prescribed minimum notice period prior to their possible disconnection, that the stated disconnection window not be greater than the prescribed maximum duration, and that a notice of disconnection issued to a residential consumer include, at a minimum, all of the elements listed in sections 4.2.5A so

that consumers are provided the necessary information to address any potential disconnection. AESI is also aware of its obligations related to the 48-Hour Notice and assures the OEB that the 48-Hour Notice will include, at a minimum, all of the elements listed in sections 4.2.5G. AESI has taken all reasonable steps to ensure compliance with its customer disconnection-related obligations under the USMC and has implemented operational changes to ensure that the disconnection notices and 48-Hour Notices issued to its customers contain clear and accurate information, and meet all required timelines.

AESI will make a payment of \$28,750 for Low-income Energy Assistance Program (LEAP) funding in Alectra Utilities Corp.'s service area to assist the most vulnerable customers in its primary service territory.

AESI will promptly refund all disconnection and reconnection fees paid by those consumers that were disconnected upon having been issued a non-compliant Disconnection Notice. AESI will deliver a letter, the contents of which will be approved by OEB staff, to each of these consumers, advising them of (a) AESI' non-compliance with the USMC as it specifically relates to the customer, and the reason for the refund of the disconnection and/or reconnection fees, (b) AESI having provided the OEB with this Assurance of Voluntary Compliance, and (c) AESI' donation of \$28,750.00 to the LEAP agency serving consumers in AESI' primary service territory.

AESI will not recover the costs related to this Assurance of Voluntary Compliance from its customers.

#### **IV. ADMINISTRATIVE MONETARY PENALTY**

AESI agrees to pay an administrative monetary penalty to the OEB in the amount of \$20,000. Payment will be made by cheque or electronically, together with notice sent to the OEB Registrar, within two weeks of AESI being given notice of the acceptance of the Assurance by the OEB.

#### **V. CONSUMER RIGHTS**

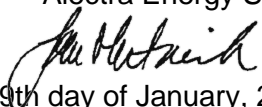
Nothing in the Assurance of Voluntary Compliance affects any rights a consumer may have under any applicable laws.

**VI. FAILURE TO COMPLY**

This Assurance of Voluntary Compliance has the same force and effect as an order of the OEB pursuant to section 112.7(2) of the OEB Act and any failure to comply with its terms shall be deemed to be a breach of an order of the OEB.

**VII. EXECUTION OF ASSURANCE**

I have the authority to bind Alectra Energy Services Inc. to the terms set out in this Assurance of Voluntary Compliance.

Name: John Matovich  
Title: EVP, Energy Solutions and Services  
Company: Alectra Energy Solutions Inc.  
Signature:   
Dated this 19<sup>th</sup> day of January, 2021